



MATTHEW G. BEVIN  
GOVERNOR

EXECUTIVE ORDER

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

Secretary of State  
Frankfort  
Kentucky

2016-576  
August 8, 2016

**RELATING TO THE REORGANIZATION OF THE BOARD OF CLAIMS, THE  
CRIME VICTIMS COMPENSATION BOARD, AND THE KENTUCKY BOARD  
OF TAX APPEALS INTO THE KENTUCKY CLAIMS COMMISSION**

**WHEREAS**, it is the responsibility of state government to provide the citizens of this Commonwealth with an economical and efficient governmental structure, as well as regulatory practices that are administered in a consistent, ethical, and coordinated manner; and

**WHEREAS**, the Commonwealth has waived its sovereign immunity to the limited extent provided for in KRS Chapter 44 to allow a person to recover against the Commonwealth for any injury that results from the negligence of the Commonwealth, by and through any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth (collectively, "Agency of the Commonwealth"); and

**WHEREAS**, the citizens of the Commonwealth are susceptible to the devastating effects of crime and its consequences, including disability and unexpected financial burdens that cause them to forfeit their independence through no fault of their own; and

**WHEREAS**, the Commonwealth should offer its care and support to crime victims; and

**WHEREAS**, it serves the public interest for the Commonwealth to indemnify those persons who are innocent victims of criminal acts and who suffer bodily or psychological injury or death as a consequence thereof; and

**WHEREAS**, crime victims have experienced an unacceptable delay in receiving justly deserved payments; and



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**WHEREAS**, pursuant to KRS 216B.400, the costs for sexual assault examinations may be billed only to the Crime Victims Compensation Board; and

**WHEREAS**, healthcare providers have experienced an unacceptable delay in receiving payment for sexual assault examinations from the Crime Victims Compensation Board; and

**WHEREAS**, Kentucky's citizens and employers must have the ability to challenge revenue and taxation rulings that they may consider arbitrary, capricious, or unsupported; and

**WHEREAS**, past members of the Board of Claims, Crime Victims Compensation Board, and Kentucky Board of Tax Appeals have been compensated exorbitant amounts of money and given benefits for meeting one time per month; and

**WHEREAS**, these payments were made to board members despite the respective boards having full-time staff, including well-compensated executive staff; and

**WHEREAS**, the operating expenses, such as salaries, of the Crime Victims Compensation Board and the Board of Claims significantly exceed payments to deserving individuals, such that more than \$1.3 million was spent on operating costs for fiscal year 2015 while the Crime Victims Compensation Board paid only \$760,000 to crime victims and for sexual assault examinations; and

**WHEREAS**, the Board of Claims, the Crime Victims Compensation Board, and the Kentucky Board of Tax Appeals serve important governmental functions, but have failed to do so in a way that promotes economy or efficiency; and

**WHEREAS**, it has been determined that immediate action can be taken to promote efficiency, improve administration, and save costs by altering the structure of these boards to reduce their membership and consolidate their members; and



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**WHEREAS**, these alterations will reduce from five to three the number of members of the Board of Claims and Crime Victims Compensation Board and further require that these three members also serve as the members of the Board of Tax Appeals; and

**WHEREAS**, there currently exists two vacancies on the Crime Victims Compensation Board and Board of Claims, and one vacancy on the Kentucky Board of Tax Appeals; and

**WHEREAS**, it has been determined that additional action can be taken in the future to further promote efficiency, improve administration, and save costs by consolidating the functions of these boards; and

**WHEREAS**, it has been determined that after appropriate study, time, and preparation, the functions and operations of the Board of Claims, the Crime Victims Compensation Board, and the Kentucky Board of Tax Appeals may be consolidated to create a streamlined process for citizens to have their claims and appeals heard, and that such organization will promote greater economy, efficiency, and improved administration, while also resulting in a cost savings that may be used to compensate deserving Kentuckians:

**NOW, THEREFORE**, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Kentucky Constitution, Sections 69 and 81, and KRS 12.028, do hereby Order and Direct the following to take effect immediately:

- I. The Crime Victims Compensation Board as established by KRS 346.030 is altered. The Crime Victims Compensation Board shall consist of three members appointed by the Governor. These members shall serve through September 30, 2016. At least one member shall be a victim as defined in KRS 421.500(1); the parent, spouse, sibling, or child of a victim as defined in KRS



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421.500(1); or a victim advocate as defined in KRS 421.570(1). The terms of the members serving on the Kentucky Crime Victims Compensation Board as it existed prior to the filing of this Order shall expire immediately upon the filing of this Order.

- II. The Board of Claims as established by KRS 44.070 is altered. The three members appointed to the Crime Victims Compensation Board pursuant to Paragraph I of this Order shall also serve as the three members of the Board of Claims through September 30, 2016. The terms of the members serving on the Board of Claims as it existed prior to the filing of this Order shall expire immediately upon the filing of this Order.
- III. The Kentucky Board of Tax Appeals as established by KRS 131.310 is altered. The three members appointed to the Crime Victims Compensation Board pursuant to Paragraph I of this Order shall also serve as the three members of the Board of Tax Appeals through September 30, 2016. The terms of the members serving on the Kentucky Board of Tax Appeals as it existed prior to the filing of this Order shall expire immediately upon the filing of this Order.
- IV. All remaining provisions of law that apply to the Crime Victims Compensation Board, the Board of Claims, and the Kentucky Board of Tax Appeals, as contained in KRS Chapter 346, KRS Chapter 44, and KRS Chapter 131, respectively, shall remain in full force and effect until September 30, 2016.
- V. I appoint the following to serve as members of the Crime Victims Compensation Board, the Board of Claims, and the Kentucky Board of Tax Appeals for a term ending September 30, 2016:

Marcus S. Carey, 10285 Highway 127 North, Sparta, Kentucky 41086. Mr. Carey is further appointed to serve as Chairperson of the Kentucky Board of Tax Appeals.

Carlo Wessels, 12 Linden Hill Drive, Villa Hills, Kentucky 41017. Mr. Wessels is further appointed to serve as Chairperson of the Board of Claims.

Jessica Burke, 96 Kinne Street, Stearns, Kentucky 42647. Ms. Burke is further appointed to serve as Chairperson of the Crime Victims Compensation Board.

Please issue commissions to them.

- VI. Between now and September 30, 2016, the members appointed to the Crime Victims Compensation Board, the Board of Claims, and the Kentucky Board of Tax Appeals, and the staffs of these boards, shall study and plan for the



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best procedures to follow in transitioning the functions, records, and cases of these boards to the Kentucky Claims Commission, which is created below.

NOW, THEREFORE, pursuant to the Kentucky Constitution, Sections 69 and 81, and KRS 12.028, I further hereby Order and Direct the following to take effect on October 1, 2016:

- VII. The Crime Victims Compensation Board as established by KRS 346.030 is abolished.
- VIII. The Board of Claims as established by KRS 44.070 is abolished.
- IX. The Kentucky Board of Tax Appeals as established by KRS 131.310 is abolished.
- X. To better serve the citizens of the Commonwealth, to provide an efficient and effective form of government, to ensure consistent application of applicable law, and to provide for the timely adjudication of claims and appeals, the Kentucky Claims Commission ("Commission") is created and established as an independent agency of state government.
- XI. The Commission shall consist of three (3) members appointed by the Governor with the consent of the Senate to serve for a term of three (3) years, except that of the members first appointed, one (1) shall serve for a term expiring September 30, 2017, one (1) shall serve for a term expiring September 30, 2018, and one (1) shall serve for a term expiring September 30, 2019. Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term. At least one (1) member shall be a victim as defined in KRS 421.500(1); the parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1); or a victim advocate as defined in KRS 421.570(1). The Governor shall designate a member of the Commission to serve as Chairperson. The Commission shall annually elect one of its members to serve as Vice Chairperson with the authority to act in the absence of the Chairperson. The Governor shall set the salary of the members of the Commission. Members of the Commission shall be reimbursed for all expenses paid or incurred in the discharge of official business at the then existing state rates.
- XII. The Commission is charged with the following power and authority:
  - A. To investigate, hear proof, and to compensate persons for damages sustained to either person or property as the proximate result of negligence on the part of an Agency of the Commonwealth; provided, however,



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regardless of any provision of law to the contrary, no Agency of the Commonwealth shall be liable for collateral or dependent claims that are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, or for punitive damages, and compensation shall not be allowed, awarded, or paid for said claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received, and the amount of payments an injured person has a right to receive, from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against an Agency of the Commonwealth, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during, or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education, shall be brought before the Commission;

- B. To hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation, including the power to reinvestigate or reopen claims without regard to statutes of limitations;
- C. To hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation;
- D. To establish and maintain necessary offices within this state;
- E. To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of the Commission's statutory authority, including administrative regulations that establish hearing procedures, dollar thresholds for the requirement of a full Commission hearing as opposed to a determination from a single member or employees, and for the approval of attorney's fees for representation before the Commission;
- F. To request from prosecuting attorneys and law enforcement officers investigations and data to enable the Commission to determine whether, and the extent to which, a crime victim qualifies for crime victim compensation. Notwithstanding any law to the contrary, the Commission shall be entitled to inspect and receive any record that would otherwise be deemed confidential and not subject to disclosure, provided that the Commission shall not make such a document available for public inspection;



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- G. To issue subpoenas and discovery orders and to petition a court of competent jurisdiction for any order necessary to carry out the Commission's powers and duties;
  - H. To take or cause to be taken affidavits or depositions within or without the state, other than for claims that involve the appeal of a revenue or taxation ruling;
  - I. Upon the filing of an application by a crime victim for compensation, to negotiate binding fee settlements with the providers of services to a crime victim who may be eligible for an award under KRS 346.130(3);
  - J. To make available for public inspection all Commission decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions;
  - K. To publicize widely the functions and purposes of the Commission;
  - L. To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering the Commission's operations during the year; and
  - M. To delegate any of its power and authority to Commission employees except the power to issue final decisions on the merits of a claim or appeal.
- XIII. To the extent not inconsistent with this Order, all duties, functions, responsibilities, records, equipment, staff, and supporting budgets of the Board of Claims and all functions, rights, powers, duties, and obligations as set forth in the following statutes and other relevant provisions of law are transferred to the Commission: KRS 44.070, 44.071, 44.072, 44.073, 44.075, 44.080, 44.084, 44.086, 44.090, 44.100, 44.110, 44.120, 44.130, 44.140, 44.150, 44.160, 44.165, and 44.990.
- XIV. To the extent not inconsistent with this Order, all duties, functions, responsibilities, records, equipment, staff, and supporting budgets of the Crime Victims Compensation Board and all functions, rights, powers, duties, and obligations as set forth in the following statutes and other relevant provisions of law are transferred to the Commission: KRS 346.010, 346.020, 346.025, 346.030, 346.040, 346.050, 346.055, 346.060, 346.080, 346.100, 346.120, 346.130, 346.135, 346.140, 346.145, 346.150, 346.155, 346.157, 346.160, 346.165, 346.170, 346.180, 346.185, 346.200, and 216B.400.
- XV. To the extent not inconsistent with this Order, all duties, functions, responsibilities, records, equipment, staff, and supporting budgets of the



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Kentucky Board of Tax Appeals and all functions, rights, powers, duties, and obligations as set forth in the following statutes and other relevant provisions of law are transferred to the Commission: KRS 131.310, 131.315, 131.320, 131.325, 131.330, 131.335, 131.340, 131.355, 131.365, 131.370, and 131.990.

- XVI. All administrative regulations previously promulgated under the authority of the Board of Claims, the Crime Victims Compensation Board, and the Kentucky Board of Tax Appeals shall remain in full force and effect and shall be administered by the Commission unless inconsistent with this Order.
- XVII. The Commission shall meet as often as necessary to perform its statutory responsibilities, including the duties enumerated in KRS 44.070, KRS 131.340, and KRS 346.040. A majority of the members of the Commission shall constitute a quorum for the transaction of business.
- XVIII. The Chairperson of the Commission shall cause to be conducted an orientation and training session for each new member of the Commission. The Chairperson shall also conduct an annual seminar for all members of the Commission to discuss and receive training on new legislation, pertinent court decisions, Commission policies and procedures, the criminal justice process, and the dynamics of domestic violence, child abuse, sexual assault, homicide, and other violent crimes.
- XIX. The Governor shall appoint the necessary number of hearing officers to serve at the direction of the Commission. A Commission member or employee may serve as a hearing officer for the Commission. Any Commission member or employee who serves as a hearing officer shall not receive additional compensation but shall be reimbursed at state rates for expenses paid or incurred as a result of serving as a hearing officer.
- XX. The Commission shall be headed by an Executive Director appointed by the Commission. The Commission shall be attached to the Public Protection Cabinet for administrative purposes, but otherwise shall be independent of all agencies, cabinets, and departments of the Commonwealth except as provided in this Order or by specific statutory authority.
- XXI. The Executive Director shall perform the duties directed by the Commission. This shall include the duty to:
- A. Carry out the policy and program directives of the Commission;
  - B. Be responsible for the day-to-day operations of the Commission;
  - C. Establish appropriate organizational structures and personnel policies;
  - D. Serve as the appointing authority for all personnel;





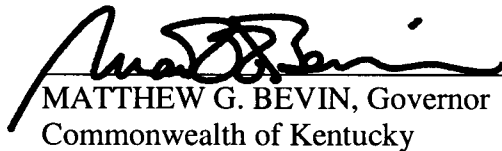
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- E. Prepare annual reports on the Commission's activities;
  - F. Prepare budgets; and
  - G. Perform all other duties assigned by law.
- XXII. With the approval of the Commission, the Executive Director and staff may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the Commission.
- XXIII. The Public Protection Cabinet, the Office of State Budget Director, the Personnel Cabinet, the Finance and Administration Cabinet, and the Commission shall take all necessary action to effectuate the provisions of this Order.

  
MATTHEW G. BEVIN, Governor  
Commonwealth of Kentucky

  
ALISON LUNDERGAN GRIMES  
Secretary of State



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### **REORGANIZATION PLAN**

It is the policy of this Administration to provide the citizens of the Commonwealth with an economical and efficient governmental structure and to administer regulatory practices in a consistent, ethical, and coordinated manner. Therefore, pursuant to the provisions of KRS 12.028, the Governor implements the attached Executive Order to temporarily reorganize three state government agencies and to later consolidate these three agencies into one agency until subsequent ratification or non-ratification by the General Assembly.

### **EXPLANATION OF CHANGE**

To promote greater economy, efficiency, and improved administration of state government, this reorganization abolishes three state agencies—the Board of Claims, the Crime Victims Compensation Board, and the Kentucky Board of Tax Appeals (collectively, the “Former Boards”). While each of these agencies serves an important governmental purpose, their functions may be consolidated to provide for enhanced constituent service, more rapid adjudications, and significant cost savings. Therefore, this reorganization vests the functions of the Former Boards in one combined agency—the Kentucky Claims Commission—effective October 1, 2016. This delayed effective date is being used to mitigate any potential disruption to services, to allow the Personnel Cabinet ample time to effect transfers, and to allow the members and staff of the Former Boards to consider and study the transfer of records, duties, budgets, and cases.

Between now and October 1, 2016, the number of members of the Former Boards is being reduced to create greater economies and efficiencies, while saving taxpayer dollars as explained below. The former Board of Claims and Crime Victims Compensation Board consisted of five shared members. The former Kentucky Board of Tax Appeals consisted of three members. The Former Boards will now consist of three shared members until the October 1, 2016 creation of the Kentucky Claims Commission, which will consist of three members. The members will be citizens at-large, one of whom must be a crime victim, crime victim advocate, or family member of a crime victim, as defined in the Order. All members are subject to Senate confirmation.

### **REDUCTION IN EXPENDITURES**

This reorganization will result in cost savings of approximately \$350,000 annually. These significant cost savings are due in large part to the decreased salary and benefits expense related to board members. The members of the Former Boards cost taxpayers approximately \$370,000 in fiscal year 2016. Under the reorganized structure, board members will cost approximately \$100,000 annually for a savings of about \$270,000 annually.

The five shared members of the Board of Claims and Crime Victims Compensation Board were paid a combined annual salary of more than \$116,000. These members also received retirement benefits, health insurance, and life insurance from the Commonwealth. Although the members met only once per month, the total annual cost of these five members was over \$220,000 in fiscal year 2016, which was scheduled to increase to nearly \$240,000 for fiscal year 2017.



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Prior to this Administration, the three members of the Kentucky Board of Tax Appeals were being paid a combined annual salary of over \$90,000. These members also received retirement benefits, health insurance, and life insurance from the Commonwealth. The total annual cost of these three members was approximately \$150,000.

Under this reorganization, the members of the Kentucky Claims Commission will be paid a salary and will receive retirement benefits, health insurance, and life insurance from the Commonwealth. The total annual cost of these three citizen members will be about \$100,000.

In addition to savings on expenditures for board members, the Kentucky Claims Commission will save funds on salary and benefits expense for non-merit, executive staff. Prior to this administration, non-merit, executive staff of the former boards cost about \$415,000 annually. The Kentucky Claims Commission will spend approximately \$375,000 on salary and benefits expense for its non-merit, executive staff, resulting in a savings of \$40,000.

The Kentucky Claims Commission will also save money on hearing officer expense, which has averaged about \$60,000 in the past few years. The members and employees of the Kentucky Claims Commission, both full-time and citizen members, will be required to serve as hearing officers for claims and appeals, which will result in a reduced budget for outside hearing officers.

Moreover, the Board of Claims and Crime Victims Compensation Fund currently share office space, while the Board of Tax Appeals has its own office space. Office space will be consolidated when possible to reduce operating expenditures.

**IMPROVEMENTS**

The most important improvement in the administration and delivery of services is that this reorganization will make available more money for payments to deserving crime victims and healthcare providers. The money previously paid as salaries and benefits to members who met once per month will instead be directed to crime victims and to healthcare providers who administer sexual assault examinations. Currently, there is an approximately \$2 million backlog in payments to crime victims and in payments to healthcare providers for sexual assault examinations. These backlogs are attributable to a lack of funds, which is in part attributable to the excessive pay to once-per-month board members. The Crime Victims Compensation Board was paying nearly double in salaries and operating expenses than it was in payments to deserving crime victims and healthcare providers. That will no longer be the case.

In addition to the savings associated with this reorganization, citizen claims and appeals will be heard and decided on a more rapid and reasoned basis. Full-time employees of the Kentucky Claims Commission will hold hearings and issue orders rather than awaiting the availability of outside contractors. The full-time capacity in which most of the Kentucky Claims Commission's hearing officers will serve will allow them to



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develop a greater understanding of the claims and appeal process, which in turn will lead to more reasoned, thorough, and consistent decisions.

**PERSONNEL IMPACT**

This reorganization will not result in a reduction in force except to the extent it reduces the number of board members from eight to three, which results in substantial cost savings that will be used to pay overdue claims and to help prevent future backlogs.

On October 1, 2016, the Kentucky Claims Commission will be created. Current employees of the Board of Claims, the Crime Victims Compensation Fund, and the Kentucky Board of Tax Appeals will be transferred from their respective agency to the Kentucky Claims Commission. The Kentucky Claims Commission will have three non-merit, executive staff members, which is the same number that the Former Boards currently have. The Kentucky Claims Commission will be headed by an Executive Director. A Deputy Executive Director, who will report to the Executive Director, will also be appointed. All other employees will report to the Deputy Executive Director.